

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	:	CIVIL ACTION NO. 11-2518 (MLC)
for the benefit of PACE	:	
CONSTRUCTION INC.,	:	OPINION & ORDER
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
UNIVERSAL CONSTRUCTION	:	
COMPANY, INC., et al.,	:	
	:	
Defendants.	:	
_____	:	

DEFAULT has been entered against the defendant Universal Construction Company, Inc. ("UCCI"). (See 6-2-11 unnumbered dkt. entry.) See Fed.R.Civ.P. 55(a).

THE PLAINTIFF now moves for entry of judgment by default against UCCI. (See dkt. entry no. 16, Notice of Mot.) See Fed.R.Civ.P. 55(b). But it is apparent that the plaintiff intends to continue to prosecute the action against the other defendants. Thus, a complete judgment entered against UCCI would not end the litigation, thereby giving rise to (1) piecemeal litigation, and (2) the possibility of a double recovery for the plaintiff.

THE DECISION to either enter judgment by default or refuse to enter such judgment rests in the Court's discretion. See Emcasco Ins. Co. v. Sambrick, 834 F.2d 71, 74 (3d Cir. 1987). The Court intends to grant the part of the motion seeking entry

of judgment by default only on the issue of liability against UCCI, and deny the part of the motion seeking entry of judgment by default on the issue of damages. The plaintiff may seek judgment on the issue of damages against UCCI when the liability of each of the other defendants has been ascertained.

FOR GOOD CAUSE APPEARING:

IT IS THEREFORE on this 7th day of November, 2011,
ORDERED that the plaintiff's motion for entry of judgment by
default against the defendant Universal Construction Company,
Inc. (dkt. entry no. 16) is **GRANTED IN PART AND DENIED IN PART AS**
FOLLOWS:

GRANTED TO THE EXTENT that it seeks entry of judgment
by default on the issue of liability against the defendant
Universal Construction Company, Inc., and

DENIED WITHOUT PREJUDICE TO THE EXTENT that it seeks
entry of judgment by default on the issue of damages against the
defendant Universal Construction Company, Inc.; and

IT IS FURTHER ORDERED that **JUDGMENT IS ENTERED** on default
against the defendant Universal Construction Company, Inc., and
in favor of the plaintiff on the issue of liability.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge